IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No. 19973 of 2000

Between:

Smt. D.Parvathamma W/o. Late Basavaiah
r/o. Sanginepally (v), Weepangandla Mandal, Mahabubnagar Dist.

..... PETITIONER

AND

1 The District Collector, Mahabubnagar.
2 The Joint Collector, Mahabubnagar.
3 The Revenue Divisional Officer,

Wanaparthy Division, Mahabubnagar Dist.
4 Smt. P.Laxmi W/o. Srinivasulu
Sanginepally (V) Weepangandla Mandal, Mahabubnagar Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly in the nature of Writ of Mandamus declaring the impugned order passed by the 1st respondent in allowing the revision filed by the 4th respondent in Proceedings No.CS2(a)/6119/99, dt.9-10-2000 as illegal, arbitrary and violative of Art.14, 19 and 21 of the Constitution of India and consequently direct the respondents to continue the petitioner as Fair Price Shop dealer of Sanginepally (v) Weepangandla Mandal, Mahabubnagar Dist by set asiding the above impugned orders passed by the 1st respondent.

Counsel for the Petitioner : MR.K.RATHANGA PANI REDDY

Counsel for Respondent Nos.1 to 3: GP for Civil Supplies

Counsel for Respondent No.4 : MR.S.BHARAT KUMAR

The Court made the following :

ORDER :

The petitioner was appointed as Fair Price Shop Dealer by proceedings dated 3-6-1998 of the third respondent herein. The fourth respondent, who was also one of the applicants for the dealership, gave a complaint alleging that the petitioner is disqualified for being appointed as Fair Price Shop Dealer of Sanginepally village on the ground that she is over aged being more than forty years old and that she does not possess the requisite educational qualifications of having 10^{th} Class. After enquiring into the same, by proceedings dated 28-8-1999 the third respondent cancelled the authorization of the petitioner. Aggrieved by the same, the petitioner filed an appeal under Clause 17 of the Andhra Pradesh Scheduled Commodities (Regulation of Distribution by Card System) Order, 1973 (hereafter called 'the Control Order') before the second respondent. By order dated 8-10-1999 the second respondent allowed the appeal of the petitioner and directed the third respondent to restore the dealership to her. Aggrieved by the same, the fourth respondent herein carried the matter to the first respondent by way of a revision under Clause 18 of the Control Order, who by impugned order dated 9-10-2000 set aside the proceedings of the Joint Collector and confirmed the order of the Revenue Divisional Officer dated 28-8-1999. This order is assailed in this writ petition.

The fourth respondent has filed a counter affidavit, *inter alia*, stating that after the orders of the District Collector, the third respondent by proceedings dated 18-10-2000 appointed the fourth respondent as Fair Price Shop Dealer of Sanginepally village in the vacancy caused due to termination of the petitioner from the dealership. It is also stated that the petitioner is more than forty years of age as on the date of appointment, and therefore, she is not qualified for being appointed as Fair Price Shop Dealer.

Learned counsel for the petitioner Sri K.Ratangapani Reddy vehemently contends

that the petitioner was born in 1958, and therefore, as on the date of appointment on 3-6-1998 she is not over aged. He also submits that as per the orders of the Government in G.O.Ms.No.198, Food, Civil Supplies and Consumer Affairs (CS.IV) Department,

dated 5-2-1996 a person with a pass in 7th Class is eligible for being appointed and as per the Transfer Certificate (TC) produced by the petitioner, she has passed 7th Class, and therefore, she is not disqualified. Therefore, this Court directed the Assistant Government Pleader for Civil Supplies to produce the file in support of the contention that the petitioner was born on 19-4-1954, and therefore, she was disqualified.

Government of Andhra Pradesh issued guidelines vide G.O.Ms.No.198, dated 5-2-1996. Paragraphs 5 and 6 thereof deals with the minimum general educational qualifications, which read as under.

"5. MINIMUM GENERAL EDUCATIONAL QUALIFICATIONS:-

5.1 A pass in 7th Class shall be the minimum general educational qualification required for appointment as fair price shop dealers.

a. The persons possessing the minimum general educational qualifications and the persons having higher qualifications, if applied, shall be treated equally for the purpose of appointment.

b. Where no candidate is available with the said minimum general educational qualifications, a candidate possessing a lesser educational qualification, if applied, may be considered for appointment.

6. AGE LIMIT:-

The candidate should be within the age limit of 18 to 40 years."

A plain reading of the above would show that the minimum general educational qualifications prescribed for the possession of Fair Price Shop Dealership is a pass in 7th Class. However, placing reliance on the subsequent Government Orders being G.O.Ms.No.99, dated 22-10-1998 (hereafter called 'the revised guidelines') sought to contend that a minimum educational qualification is a pass in 10th Class, and therefore, the petitioner is disqualified. This submission cannot be accepted.

Admittedly, the petitioner herein was initially appointed as Fair Price Shop Dealer by proceedings dated 3-6-1998 when G.O.Ms.No.198, dated 5-2-1996 was not amended. Therefore, the petitioner cannot be said to be disqualified on the ground

that she does not possess the minimum educational qualifications.

As per para 6 of the pre-revised guidelines, a candidate for being authorised to be Fair Price Shop Dealer should be within the age limit of 18 to 40 years. It is the contention of the learned counsel for the petitioner that the petitioner was born on 1-4-1958, and therefore, she is not age barred. This is belied by a reference to the original TC in respect of the petitioner. The same would show that the petitioner was born on 1-4-1954, and therefore, she is beyond 40 years. Certainly, she was disqualified as she crossed 40 years. The first respondent herein while allowing the revision petition filed by the fourth respondent also placed reliance on the TC of the petitioner showing her date of birth as
1-4-1954. This finding of the revisional authority does not warrant any interference as the same is in accordance with the material available on record, which has been produced before this Court.

In the result, the writ petition is devoid of merits and accordingly dismissed. No costs.

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(V.V.S.RAO, J.)

16-06-2005.

Msr.

To

1 The District Collector, Mahabubnagar.
2 The Joint Collector, Mahabubnagar.
3 The Revenue Divisional Officer,

Wanaparthy Division, Mahabubnagar Dist.
4 2 CCs to Government Pleader for Civil Supplies,

High Court Buildings, Hyderabad.

5 2 CD copies

HON'BLE SRI JUSTICE V.V.S.RAO

W.P.No.19973 of 2000

16-06-2005

(Msr)